

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

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CLERK L. E. G. G.
SO. DIST. OF GA.

UNITED STATES OF AMERICA)
)
 v.) CR 106-030
)
 DAVID ANGEL MONTES SAMUDIO)

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

The above-captioned criminal case is now before the Court because the parties consented to proceed with the administration of a guilty plea and allocution pursuant to Federal Rule of Criminal Procedure 11 before the undersigned, subject to final approval and sentencing by a United States District Judge. Now, for the reasons set forth below, the Court **REPORTS** and **RECOMMENDS** that the District Judge accept the plea of guilty, enter final judgment of guilty against the defendant, and, upon review of the pre-sentence investigation report, impose sentence accordingly.

I. BACKGROUND

On July 18, 2006, the above-named defendant, along with counsel, consensually appeared before the undersigned United States Magistrate Judge, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and entered a plea of guilty to Counts One and Three of the indictment in this case. The Court cautioned and examined the defendant under oath concerning each of the subjects mentioned in Rule 11 and determined that the defendant understood the admonishments under Rule 11.

II. FINDINGS

The undersigned Magistrate Judge finds the following:

1. The defendant, with the advice of his attorney, has consented orally and in writing to enter this guilty plea before a Magistrate Judge, subject to final approval and sentencing by the presiding District Judge;
2. The defendant fully understands the nature of the charges and penalties;
3. The defendant fully understands the terms of the plea agreement;
4. The defendant understands his constitutional and statutory rights and wishes to waive these rights, including the right to a trial by jury and the right to appear before a United States District Judge for the purpose of entering his guilty plea;
5. The defendant's plea is made freely and voluntarily;
6. The defendant is competent to enter this plea of guilty;
7. There is an adequate factual basis for this plea; and
8. The ends of justice will be served by acceptance of the defendant's plea of guilty.

III. CONCLUSION

For the reasons set forth above, the Court concludes that the defendant's plea was made knowingly, intelligently, and voluntarily, that the offenses charged were supported by an independent basis in fact containing each of the essential elements of such offenses, and that all requirements imposed by the United States Constitution and Rule 11 of the Federal Rules of Criminal Procedure have been satisfied. Therefore, the Court **REPORTS** and **RECOMMENDS** that the District Judge accept the plea of guilty, enter final judgment of

guilty against the defendant, and, upon review of the pre-sentence investigation report, impose sentence accordingly.

SO REPORTED and RECOMMENDED this 21st day of July, 2006, at Augusta, Georgia.



W. LEON BARFIELD
UNITED STATES MAGISTRATE JUDGE

United States District Court

Southern District of Georgia

UNITED STATES OF AMERICA

vs.

CASE NO. CR106-30

DAVID ANGEL MONTES SAMUDIO

The undersigned, a regularly appointed and qualified deputy in the office of this Clerk of this District, while conducting the business of the Court for said Division does hereby certify the following:

- 1 Pursuant to instructions from the court, and in the performance of my official duties, I personally placed in the U.S. Mail a sealed envelope bearing the lawful frank of the Court, and properly addressed to each of the persons, parties or attorneys listed below;
and
2. That the aforementioned envelope(s) contain a copy of the documents known as Rpt & Recomm dated 7/21/06, which is part of the official records of this case.

Date of Mailing: 7/21/06Date of Certificate: 7/21/06

SCOTT L. POFF, CLERK

By

L. J. Poff

NAME:

1. David Angel Montes Samudio
2. George Hall
3. _____
4. _____
5. _____
6. _____
7. _____

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